

Application No. ZT-103-06, York County Planning Commission: Consider amendments to Section 24.1-407 of the York County Zoning Ordinance (Chapter 24.1, York County Code) to revise the performance standards relating to accessory apartments as follows: to increase the maximum matter-of-right size for accessory apartments to 800 square feet or 35% of the principal building floor area, whichever is less; to allow detached accessory apartments as a matter-of-right in the following zoning districts and with the following minimum lot sizes, respectively: RC – 5 acres, RR – 1 acre, R20 – 40,000 square feet, and R13 – 40,500 square feet; to require special use permit authorization for detached accessory apartments on properties of lesser size in those zoning districts; and, to provide opportunities for approval by special use permit of attached or detached accessory apartments of up to 1,000 square feet or 49% of the principal building floor area, whichever is less.

Mr. Mark Carter, Assistant County Administrator, presented a summary of the staff report dated June 27, 2006 in which the staff recommended approval. Mr. Carter offered to answer questions of the members; there were no questions.

Chair Ptasznik opened the public hearing. Hearing no one, he closed the public hearing.

Mr. Barba commended Mr. Carter and the staff for their work on the application and moved adoption of Resolution No. PC06-17.

Resolution No. PC06-17

On motion of Mr. Barba, which carried 6:0 (Ms. Conner absent), the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF APPLICATION NO. ZT-103-06 TO AMEND SECTION 24.1-407, STANDARDS FOR ACCESSORY APARTMENTS, OF CHAPTER 24.1, ZONING (YORK COUNTY CODE) TO EXPAND THE OPPORTUNITIES FOR ACCESSORY APARTMENTS TO BE LOCATED ON CERTAIN RESIDENTIAL PROPERTIES AS A MATTER OF RIGHT

WHEREAS, Section 24.1-407 of Chapter 24.1, Zoning, of the York County Code sets forth standards and conditions applicable to the establishment of accessory apartments in conjunction with single family detached residential uses; and

WHEREAS, the Planning Commission has determined that adjustments in the existing provisions should be considered in order to provide additional opportunities for such apartments to be established as a matter of right rather than by special use permit and has sponsored Application No. ZT-103-06; and

WHEREAS, the Commission has conducted a duly advertised public hearing and has determined that approval of the proposed amendments would be consistent with good zoning practice;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission, this the 12th day of July, 2006, that it does hereby forward Application No. ZT-103-06 to the Board of Supervisors with a recommendation for approval of amendments to Section 24.1-407 of the Zoning Ordinance, to read as set forth below:

Sec. 24.1-407. Standards for accessory apartments in conjunction with single-family detached dwellings.

- (a) Not more than one (1) accessory apartment may be permitted in conjunction with a single-family detached dwelling.
- (b) Accessory apartments may be considered and authorized in accordance with the following schedule/procedures:
 - 1. Accessory apartments not exceeding ~~800~~600 square feet or ~~35%~~25% of the floor area of the principal structure, whichever is less, and attached to the principal structure (the single-family detached dwelling unit ~~unit~~), shall be permitted as a matter of right in the RC, RR, R20 and R13 zoning districts. ~~Attached accessory apartments in excess of the 600 square feet / 25% limitation, but not exceeding 800 square feet or 35% of the floor area of the principal structure, whichever is less, may be authorized by special use permit in the RC, RR, R20 and R13 zoning districts.~~
 - 2. Accessory apartments proposed in detached structures in the RC, RR, R20 or R13 zoning districts shall be permitted as a matter of right if the subject property meets the following minimum area requirements and the size of the accessory apartment does not exceed the 800 square feet or 35% of the principal structure floor area:

<u>District</u>	<u>Minimum Area</u>
<u>RC</u>	<u>5 acres</u>
<u>RR</u>	<u>1 acre</u>
<u>R20</u>	<u>40,000 square feet</u>
<u>R13</u>	<u>40,500 square feet</u>

Detached accessory apartments proposed on properties of lesser area shall require authorization by special use permit, and shall not exceed 800 square feet or 35% of the principal structure floor area, whichever is less.

- 3. ~~Notwithstanding the above limitations, on property in the RC or RR zoning districts which is at least twice as large as the applicable conventional development (i.e., not a "cluster" development) minimum lot size for that district/property, or on property in the R20 zoning district which is at least four times as large, an attached or detached accessory apartment shall be permitted as a matter of right provided that it does not exceed 800 square feet or 35% of the principal structure floor area, whichever is less.~~ Upon authorization by special use permit, the maximum size of an accessory apartment, whether attached or detached, on

~~such~~ properties meeting the above noted minimum area thresholds may be increased to 1,000 square feet or 49% of the floor area of the principal structure, whichever is less.

- (c) Access to an accessory apartment whether in the principal structure or in a detached accessory structure, shall be designed so that the premises continues to have the appearance from the principal street frontage of one single family detached dwelling unit and its customary accessory structures. No new entrance to accommodate an accessory apartment shall be installed on the front façade (facing the street) of an existing or proposed principal structure. The applicant shall be responsible for submitting sketches and/or plans to demonstrate compliance with this condition.
- a. For the purposes of determining allowable floor area for an accessory apartment, all “habitable space,” as defined and determined under the terms of the Building Code, shall be included in the calculation and shall be considered a part of the apartment. Space which does not meet the “habitable” criteria shall not be counted in floor area calculations for the accessory apartment.
- (e) Notwithstanding the provisions of Section 24.1-273(c) of this chapter, for the purposes of this section, the term “attached” shall be construed to require connection by enclosed, heated, habitable space. Structures which are merely attached by a wall or roof construction, or which are within ten (10) feet of the principal structure shall not be considered “attached.”
- (f) The maximum number of bedrooms in an accessory apartment shall be one (1).
- (g) Adequate provisions shall be made for off-street parking of motor vehicles in such a fashion as to be compatible with the character of the single-family residence and adjacent properties.
- (h) Approval of accessory apartments shall be contingent upon prior certification by the health department that any on-site water supply and sewage treatment facilities are adequate to serve the total number of bedrooms proposed on the property (principal and accessory).
- (i) The accessory apartment shall be occupied only by family members or guests of the occupant of the single-family dwelling or by a bona fide medical/health caretaker or domestic employee of the occupant of the single family dwelling. The apartment shall not be offered to the general public (i.e., non-family members / non-guests) for rental or other occupancy arrangements.
- (j) All utilities serving the accessory apartment (e.g., electric, water, sewer, gas) shall be registered to the occupant of the principal residence. Registration/billing of utility accounts to different parties (e.g. the occupant of the principal residence and the occupant of the accessory apartment) shall be prohibited, even if separate meters for the principal residence and accessory apartment are used.
- (k) Prior to issuance of a Building Permit for the accessory apartment the property owner shall prepare and record with the Clerk of the Circuit Court, at his expense, a deed restriction on the property stipulating that the accessory apartment will be used, occupied and maintained in accordance with the above-noted restrictions and such others as may be prescribed by the York County Board of Supervisors in approving the special use permit. Such restrictions shall not be

voided, in whole or in part, unless specifically authorized by the County Administrator in recognition of some subsequent change in the zoning restrictions applicable to accessory apartments or upon removal of the accessory apartment through demolition or alterations to the structure.

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